



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DW 05-04

KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

COPY MAILED

MAY 07 2004

OFFICE OF PETITIONS

In re Application of
Ponasiak et al. :
Application No. 09/776,984 : ON PETITION
Filed: 5 February, 2001 :
Attorney Docket No. 32887.205225 :

This is a decision in response to the petition under 37 CFR 1.137(b),¹ filed on 21 April, 2004.

The petition is **GRANTED**.

This application became abandoned on 21 August, 2003, for failure to timely pay the issue fee as required by the Notice of Allowance and Issue Fee Due, mailed on 20 May, 2003, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 26 September, 2003. The petition to

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and


(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

withdraw the holding of abandonment filed on 12 January, 2004,
was dismissed on 27 February, 2004.

Petitioners have now submitted the issue and publication fees.

The application is being forwarded to the Publishing Division for
processing into a patent.

Telephone inquiries concerning this matter may be directed to the
undersigned at (703)308-6918.


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions